

Exhibit B

REDACTED VERSION OF
DOCUMENT SOUGHT TO BE SEALED

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Page 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

-----X
FACEBOOK, INC., a Delaware)
corporation,)
Plaintiff/Counterclaim) Case No.
Defendant,) 3:20-CV-07182-JCS
vs.)
BRANDTOTAL, LTD., an Israeli)
corporation, and UNIMANIA,)
INC., a Delaware corporation,)
Defendants/Counterclaim)
Plaintiffs.)
-----X

** H I G H L Y C O N F I D E N T I A L **

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VIDEOCONFERENCE VIDEOTAPED 30(b)(6) DEPOSITION OF
FACEBOOK, INC.
by corporate designee
MICHAEL CLARK

Wednesday, February 10, 2021

10:41 a.m. (MT)

Remotely Reported Stenographically By:
Mayleen Ahmed, RMR, CRR, CRC, CSR-CA 14380
Job No.: 001306

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1 REMOTE APPEARANCES

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15 ALSO PRESENT:

16 JESSICA ROMERO, Counsel, Facebook, Inc.
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18 STACY CHEN, Counsel, Facebook, Inc.
19 KEVIN JOHNSON, Videographer, TransPerfect

20

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24

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1 Do you know whether this document was
2 created before or after Facebook began its
3 investigation into BrandTotal?

4 MR. HOLTZBLATT: Object to form.

5 A. As there were multiple investigations,
6 could you be more specific?

7 Q. Yes.

8 Do you know how many investigations
9 there were into BrandTotal?

10 A. I believe I would classify them as two
11 investigations in the context of this time frame.

12 Q. What do you mean by "this time frame"?

13 A. Oh, I just -- referring to UpVoice and
14 Unimania as the time frame.

15 Q. When you say "this time frame," are you
16 talking November of 2020?

17 A. "Time frame" is probably the wrong word.

18 In the course of the two investigations:
19 UpVoice and Unimania.

20 Q. I'd like to focus specifically on the
21 investigation into UpVoice.

22 Do you know whether Exhibit 2 was
23 created before or after Facebook began its
24 investigation into UpVoice?

25 MR. HOLTZBLATT: Object to form.

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1 A. The document as a whole, which is
2 documented here and has a specific revision history,
3 was October 23rd.

4 The procedures themselves existed prior
5 to this date.

6 Q. But it's correct, then, that the
7 document itself was created after Facebook began its
8 investigation into UpVoice?

9 A. Based -- based on -- I believe so.

10 Q. Does this document accurately describe
11 the protocol used in the investigation of UpVoice?

12 MR. HOLTZBLATT: Object to form.

13 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 Q. And is that the process and procedure
18 used during the investigation of UpVoice?

19 A. The technical investigation portion of
20 UpVoice was done by eCrime, by another team instead
21 of Facebook.

22 Q. And is -- strike that.

23 Did the eCrime team use this protocol?

24 A. The scraping covered incident reporting
25 portion of the UpVoice -- UpVoice investigation used

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1 this protocol.

2 Q. How many portions of the UpVoice
3 investigation are there?

4 MR. HOLTZBLATT: Object to form.

5 A. Could you be more specific?

6 Q. Yeah. So, I believe you stated the
7 scraping covered incident reporting portion of the
8 UpVoice investigation used this protocol; is that
9 correct?

10 A. That is correct.

11 Q. I'm trying to understand how many
12 portions of the investigation there are if the
13 scraping covered incident reporting is one portion.

14 Does that make sense?

15 A. That makes --

16 MR. HOLTZBLATT: Object to form.

17 A. -- sense.

18 Q. Go ahead.

19 A. No. Please.

20 Q. I was just going to say -- I'll actually
21 strike that. I want to hear what you have to say.

22 So to re-ask the question. I'm trying
23 to understand how many portions there are if the
24 scraping covered incident reporting is one portion?

25 A. As I've mentioned before, the technical

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1 investigation, the enforcement, and the scraping
2 covered incident are the three primary portions.
3 And so the scraping covered incident portion of this
4 document and of the External Data Misuse team is
5 relevant to UpVoice.

6 Q. So let me make sure I understand this.

7 There are three macro portions in the
8 investigation: The first is the technical
9 investigation, the second is the enforcement, and
10 the third is the scraping covered incident portion;
11 is that correct?

12 A. Correct.

13 Q. The scraping covered incident portion
14 uses the protocol identified in Exhibit 2, correct?

15 A. Correct. And the other two for external
16 data misuse scraping investigations.

17 Q. Are you saying the other two portions
18 also use this document for external data misuse
19 scraping investigations?

20 A. Yes.

21 Q. What team is responsible for the
22 technical investigation?

23 MR. HOLTZBLATT: Object to form.

24 A. The -- I'm slightly confused by your
25 question. Could you be more specific?

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1 Q. What aspect of the question is confusing
2 so I can clarify?

3 A. Do -- could you ask it again?

4 Q. I'll ask a little bit broader.

5 Who is responsible for the technical
6 investigation portion of an investigation?

7 MR. HOLTZBLATT: Object to form.

8 A. Of a scraping investigation?

9 Q. Yes.

10 A. Okay. Normally, the External Data
11 Misuse team handles the technical investigation and
12 enforcement and scraping covered incident reporting
13 of scraping incidents. There are other teams which
14 get involved at certain times in those
15 investigations. The one other team would be eCrime,
16 which Sanchit, in your email, is a part of, which
17 helped in the UpVoice-specific investigation.

18 Q. Are any other formal protocols used
19 during the -- either the technical or the
20 enforcement portions of the investigation?

21 MR. HOLTZBLATT: Object to form.

22 A. Today or --

23 Q. Let's say in 2020.

24 A. In 2020 --

25 MR. HOLTZBLATT: I'm going to -- let me

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1 engaged in the scraping incident?

2 A. If -- I'm going to refer to Exhibit 3
3 for a moment.

4 Q. Okay.

5 A. [REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

10 Q. Okay.

11 A. [REDACTED]

[REDACTED]

13 Q. Sure. We can go with that.

14 A. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

18 Does that distinction make sense to you?

19 A. In the context of this conversation,
20 yes.

21 Q. Great. Sorry. I had to go back and
22 remember the original question before we went down
23 the naming rabbit hole we did.

24 A. Okay.

25 Q. In determining -- strike that.

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1 [REDACTED]

[REDACTED]

[REDACTED]

4 MR. HOLTZBLATT: Object to form.

5 A. What do you mean by "consider"?

6 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 A. [REDACTED]

[REDACTED]

12 [REDACTED] [REDACTED]

[REDACTED]

14 [REDACTED].

15 [REDACTED]

[REDACTED]

[REDACTED]

18 MR. HOLTZBLATT: Object to form.

19 A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1 [REDACTED]

[REDACTED].

3 Q.

[REDACTED]

[REDACTED]

6 MR. HOLTZBLATT: Object to form.

7 A.

[REDACTED]

9 [REDACTED] [REDACTED]

[REDACTED]

[REDACTED].

12 [REDACTED]

[REDACTED]

[REDACTED]

15 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

19 [REDACTED]

[REDACTED]

21 Q. What do you understand --

22 MR. HOLTZBLATT: Dustin -- go ahead.

23 Dustin, I was -- I don't know where we

24 are in the line of questioning, but I -- you know,

25 we've been going for about an hour, so I just want

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1 that.

2 Q. What additional elements have a URL?

3 A. The creative; the ad target where --
4 where it clicks through and the action after are two
5 examples.

6 Q. Do you have any other examples?

7 A. Not off the top of my head.

8 Q. And the number of comments, reactions,
9 and shares associated with an advertisement is
10 something else I would include in "advertising
11 data."

12 Do you understand that?

13 A. I do understand that.

14 Q. All right. So to summarize, that when I
15 use the term "advertising data," I'm referring only
16 to the advertisement, texts, images or video; the
17 sponsor of the advertisement; the URL of the
18 advertisement; and the number of comments,
19 reactions, or shares associated with the
20 advertisement.

21 Do you understand that?

22 A. I do understand that.

23 And that is -- if that's how we're
24 referring to "advertising data," there are
25 additional things that are included around

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1 advertising data.

2 Q. Such as?

3 A. And it's why I've been asking the
4 question.

5 Such as other target information that
6 are associated with the individual.

7 Q. What do you mean by "other target
8 information associated with the individual"?

9 A. For instance, things -- a non-exhaustive
10 list, but examples might include: Why am I seeing
11 this? Covered audience IDs.

12 You used the term "sponsor"; I think I
13 would use the term "advertiser."

14 The advertiser name and advertiser IDs.
15 If that's an individual, that is their first and
16 last name and their Facebook user ID.

17 Q. What is a covered audience ID?

18 A. A custom audience. It's -- it's one
19 example of many pieces that are information included
20 in the -- in the ad when it's the data presented in
21 the ad for how to show it.

22 Q. Mr. Clark, are you familiar -- strike
23 that.

24 [REDACTED]

[REDACTED]

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1 [REDACTED]

2 MR. HOLTZBLATT: Object to form.

3 A. Could you ask that again?

4 Q. Yes.

5 [REDACTED]

[REDACTED]

7 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q. If the --

13 MR. HOLTZBLATT: Let me --

14 Q. -- source code --

15 MR. HOLTZBLATT: Sorry, Dustin. Let me
16 just pause. We've been joined by an additional
17 attorney to the Zoom, so I just want to note for the
18 record that Jessica Romero, in-house counsel at
19 Facebook, has just joined the deposition.

20 Sorry for the interruption, Dustin.

21 MR. TAYLOR: Thank you, Counsel.

22 BY MR. TAYLOR:

23 Q. [REDACTED]

[REDACTED]

[REDACTED]

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1 MR. HOLTZBLATT: This witness was
2 prepared to answer questions within the scope of
3 Topic 7 and 9. He's not been put forth by Facebook
4 to answer for Facebook with respect to tools that
5 Facebook makes available for the collection of
6 information through authorized means. We provided a
7 different witness to answer those questions, who
8 you've already deposed.

9 BY MR. TAYLOR:

10 Q. Mr. Clark, I'm afraid we may have gotten
11 a little off base. I want to recenter us.

12 I am trying to understand what is the
13 harm to Facebook from an application that scrapes
14 only an advertisement's text, images, or video?

15 MR. HOLTZBLATT: Object as asked and
16 answered.

17 A. The harm is reflected directly in my
18 Declaration. I can go back through those. All --
19 all of those elements ties back to the individual.

20 The focus of our investigations is to
21 observe violations of the terms of service, which
22 are specific commitments made to protect both
23 Facebook and its consumers.

24 Scraping and the automated collection of
25 any of that data without permission means it is done

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1 so by subverting controls which are built
2 intentionally into the application, and anything
3 outside of that creates risk for both Facebook as
4 well as the consumer.

5 Q. Is that risk reduced if Facebook has had
6 the opportunity to review the source code for the
7 program and confirm that it, for example, is not
8 used for other harmful acts like coordinated
9 inauthentic behavior?

10 MR. HOLTZBLATT: Object to form.

11 A. From what I understand, the review was
12 static analysis of -- in the UpVoice case, static
13 analysis of what was occurring; in the Unimania
14 case -- or in the investigation, dynamic analysis of
15 traffic. Which point -- we have no ability to
16 determine or know what happens once the data leaves
17 the client and goes to any third-party servers or
18 services, and how it may be used and what it may be
19 used.

20 What I can share is that data that has
21 been taken in that case in the past can be used for
22 these other purposes. Therefore, any collection
23 that is done in automated ways without permission
24 happens outside of the channels built intentionally
25 to share where those controls are put in place and

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1 those protections are put in place.

2 And when it happens outside of it, that
3 risk of harm happens whenever data is collected in
4 that way.

5 Q. Do you understand the term "advertising
6 metrics" as it relates to Facebook advertisements?

7 MR. HOLTZBLATT: Object to form.

8 A. I would like -- can you tell me what you
9 mean by "advertising metrics"?

10 Q. Have you ever heard the term
11 "advertising metrics" used in relation to Facebook
12 advertisement?

13 A. I'm asking because -- do you mean the
14 metrics that are provided inside of the tool by
15 Facebook for advertisers, or do you mean something
16 else?

17 Q. Have you heard the term "advertisement
18 metrics" used in relation to Facebook
19 advertisements?

20 A. I'm going to ask my question again. I
21 -- in our advertising tools that we provide to
22 businesses or we provide for advertisers, there are
23 metrics made available. So I've heard the words
24 "advertising metrics," but I just --

25 Q. Would --

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1 A. -- don't know if that's what you mean.

2 Q. I apologize.

3 Would those metrics include the number
4 of comments and reactions or shares associated with
5 the advertisement?

6 A. I do not know. I do not work on that
7 tool.

8 Q. Okay. Do you understand what the number
9 of comments, reactions, or shares associated with an
10 advertisement means?

11 A. I do understand what that means.

12 Q. Okay. Is --

13 A. I --

14 Q. Go ahead.

15 A. I want to -- I want to follow up in my
16 last answer, that I do understand what that means,
17 and I do also know that when we share metrics of any
18 kind, or analytics, unless data is provided in -- as
19 part of a third-party developer platform, those
20 metrics are presented in an anonymized way.

21 Q. And on page 4 of your Declaration, I
22 believe it is paragraph 5(e), starting in line 3,
23 you state, "If the URL for the advertisement is
24 scraped." Do you see that?

25 A. Line 3, yes.

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1 actions in which the developer has been able to
2 bring themselves into compliance.

3 In any of those instances where the
4 developer was able to bring themselves into
5 compliance, was the developer then able to gain
6 access to information not available through any
7 Facebook API?

8 A. Thank you for clarifying.

9 None of the cases that I am aware of
10 were they able to get access to information that was
11 not a part of an API or where specific permission
12 was granted.

13 Q. In any of the instances referenced in
14 paragraph 14 of your Declaration where a developer
15 was able to bring themselves into compliance, was
16 the developer able to gain access to advertising
17 information of a third party?

18 MR. HOLTZBLATT: Object to form.

19 A. Were they able to gain access to --

20 THE REPORTER: We lost the witness.

21 THE WITNESS: Sorry. I had "Do Not
22 Disturb" on, and I don't know why that call still
23 came through.

24 A. In your last question, can you clarify
25 if you mean via a third-party developer platform

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1 API?

2 Q. I mean, via any method whatsoever.

3 My question is: In any of the instances
4 referenced in paragraph 14, was a developer able to
5 gain access to advertising information of another
6 party?

7 MR. HOLTZBLATT: Object to form.

8 A. I'm asking that clarification.

9 I will answer that, to the best of my
10 knowledge, in an automated means, no.

11 Q. Mr. Clark, are you aware that Facebook
12 provides advertising information through the
13 Advertising Library, Ad Library?

14 MR. HOLTZBLATT: Object as out of scope.

15 A. I am aware, and I am aware that the
16 Advertising Library is intended for human viewing
17 and not built or intended for automated collection,
18 which is why I was very specific in my last answer.

19 Q. Are you aware that Facebook provides
20 advertising metrics through the Advertising Library
21 for advertisements relating to social, economic, or
22 political issues?

23 MR. HOLTZBLATT: Object as out of scope.

24 A. I know that the External Data Misuse
25 team has built protections to prevent scraping or

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1 automated collection of information from the
2 Ad Library. I do not have detail on exact
3 information that is contained within the Advertising
4 Library.

5 Q. Do you know what harm, if any, Facebook
6 would suffer by providing advertising metrics
7 information relating to nonsocial, economic, or
8 political issue advertisements?

9 MR. HOLTZBLATT: Object as out of scope.

10 A. The harm goes back to -- a very similar
11 question you've asked a few times. The harm is the
12 violation of Facebook's terms of use around the
13 automated collection of data without permission
14 because that data contains information about
15 individuals and consumers, and the harm both to
16 Facebook as well as to the consumer from that
17 information being gotten and retrieved in unintended
18 ways without permission.

19 Q. Mr. Clark, I am changing subjects right
20 now. I'm not sure how long we've been going. I
21 think about 45 minutes. It is now 1:00 p.m.
22 Mountain time.

23 Would you like to take a break, or would
24 you like to keep pushing through?

25 A. What is the next topic we're going into?

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1 Q. The FTC Order.

2 MR. HOLTZBLATT: Well, I would -- I
3 think I'm going to suggest that we take a lunch
4 break at this point.

5 THE WITNESS: Yeah.

6 MR. HOLTZBLATT: Just so we don't find
7 ourselves knee-deep into some new topic and then
8 wanting to eat food.

9 MR. TAYLOR: Yep. Let's go ahead and go
10 off the record.

11 THE VIDEOGRAPHER: We're going off the
12 record. It's 1:04 p.m.

13 (Lunch Recess taken.)

14 THE VIDEOGRAPHER: We're back on the
15 record. It's 1:39.

16 BY MR. TAYLOR:

17 Q. Welcome back from lunch, Mr. Clark.

18 Before we broke, I know I said we were
19 going to talk about the FTC Order, and we will
20 momentarily. I just want -- had a couple of
21 questions, looking at my notes on the break.

22 Before we broke, we were talking about
23 the harm to Facebook from the collection of
24 advertising metrics information.

25 Do you remember that?

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1 A. We were talking about the harm in
2 collection of data without permission, automated
3 collection of data without permission.

4 Q. In part of the discussion, you stated
5 the harm involved the fact that the information
6 contains information about individuals and
7 consumers, correct?

8 MR. HOLTZBLATT: Object to form.

9 A. That was one part of it, yes.

10 Q. What harm is there to Facebook from the
11 automatic, without permission, collection of the
12 total number of impressions for an advertisement?

13 A. The total number of impressions for an
14 advertisement cannot be gathered without other
15 associated information. That number does not exist
16 on the endpoint by itself, and the collection of
17 data that comes with it includes other, both
18 personal identifiable information as -- as well as
19 information about the advertisement.

20 Q. If that information could be gathered
21 without the other information, would there be a harm
22 to Facebook?

23 MR. HOLTZBLATT: Object to form.

24 A. Facebook provides the relevant
25 information to advertisers for their own ads. It

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1 also provides it in human visibility for
2 transparency's sake in the Ads Library. And if it
3 were able to be made available without creating
4 other risk or harm, could be made available via a
5 part of the third-party developer platform,
6 otherwise, collection of that data is a violation of
7 Facebook terms.

8 Q. I have a similar question except for the
9 number -- total number of shares.

10 If the total number of shares of an
11 advertisement could be gathered without information
12 about individuals and consumers, what would the harm
13 to Facebook be?

14 MR. HOLTZBLATT: Object to form.

15 A. I would give the same answer that I --
16 that I just did. The harm is in the collection. If
17 that information can be made available without
18 exposing other information or creating harm for
19 Facebook, the consumer, or the advertiser, it would
20 be made available via a third-party API or intended
21 only for human visibility and not made -- not
22 intended to be collected via automated means without
23 permission.

24 Q. Was there any event in 2020 that changed
25 the way Facebook enforced automated scraping?

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1 MR. HOLTZBLATT: Object to form.

2 A. That's a really broad question.

3 Could you be more specific about what
4 you mean by "event"?

5 Q. Yeah. So I -- I'm looking at what we
6 have marked as Exhibit 2, the procedure, and note
7 that that was formalized in October 2020, correct?

8 A. Correct.

9 Q. I'm trying to understand if there was
10 some event or motivating factor, occurrence --
11 whatever you want to call the term -- that changed
12 the way Facebook enforced against automated
13 scraping, that provided an additional motivation?

14 Do you understand what -- what I'm
15 trying to get at?

16 MR. HOLTZBLATT: I'm going to object to
17 form.

18 A. I don't -- I don't exactly know what
19 you're trying to get at, so would ask you to provide
20 any clarity you can.

21 Q. Yes. Why was the procedure shown in
22 Exhibit 2 not formalized before October 2020?

23 MR. HOLTZBLATT: Object to form.

24 A. The procedure that's documented here is
25 to outline the procedure as part of the scraping

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1 covered incident obligations, as part of obligations
2 attached to the FTC Order, or Exhibit 1 attached to
3 my Declaration.

4 This was to outline the process and
5 procedure that was in place and to document the
6 procedures that were happening at...

7 Q. Why --

8 THE REPORTER: I'm sorry. That "was
9 happening at"? I couldn't hear the end.

10 THE WITNESS: At that time.

11 THE REPORTER: Thank you.

12 BY MR. TAYLOR:

13 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22 MR. HOLTZBLATT: Object to form.

23 A. [REDACTED]

[REDACTED]

[REDACTED]

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1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 A. The --

8 MR. HOLTZBLATT: Object to form.

9 Q. I apologize. I'll rephrase.

10 [REDACTED]

[REDACTED]

12 [REDACTED]

[REDACTED]

14 MR. HOLTZBLATT: Object to form.

15 A. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24 A. It describes --

25 MR. HOLTZBLATT: Object to form.

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1

A.

7

MR. HOLTZBLATT: Object to form.

8

A.

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1

[REDACTED]

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1 [REDACTED]

[REDACTED]

[REDACTED]

4 MR. HOLTZBLATT: I'm going to object as
5 calling for a legal conclusion and also on the
6 grounds of privilege. And instruct the witness to
7 answer only insofar as you can do so without
8 revealing privileged information.

9 A. Let me look here for a moment.

10 (Witness reviewing document.)

11 A. [REDACTED]

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1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
6 [REDACTED]
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11 [REDACTED]
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[REDACTED]
[REDACTED]
[REDACTED]
16 MR. HOLTZBLATT: Object as vague as to
17 two different documents.
18 Q. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5 Facebook has both built and provided the ability for
6 consumers to download their information in a service
7 called "DYI," or Download Your Information, which
8 lets you connect to your own account and download --
9 download your information, that includes photos
10 which you may have uploaded, videos which you may
11 have uploaded, texts and notes and other pieces of
12 information, including interests that you have
13 created.

14 There is a very specific protocol and
15 standard in that process when you download it or how
16 you can retrieve that data and then take that data
17 to be used elsewhere.

18 In addition, the data portability
19 standard is also integrated. One example is being
20 able to take your photos and have them be portable
21 to Google Photos.

22 And those are -- those are a couple
23 examples of user initiated, where they are logged in
24 as themselves, and are initiated either via
25 authorized third-party developer transaction, or on

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1 data portability, or are tied to the user actually
2 downloading a file for their consumption and use.

3 Q. Looking back at Exhibit 6, the FTC
4 Order, the FTC Order in part defines a "covered
5 third party" such that the party must use or receive
6 covered information, correct?

7 A. Correct.

8 Q. On that same page, the FTC defines
9 "Covered Information" in part to mean "information
10 from or about an individual consumer"?

11 A. It -- it -- "but not limited to," very
12 important language, first name or last name. To --
13 "(a) first name or last name; (b) geolocation
14 information sufficient to identify a street name and
15 name of city or town; (c) an email address or other
16 online contact information, such as instant
17 messaging, user identifier, or a screen name; (d) a
18 mobile or other telephone number; (e) photos and
19 videos; (f) Internet protocol address, IP address,
20 user ID, or other persistent identifier that can be
21 used to recognize a user over time and across
22 different devices, websites or online services; (g)
23 a Social Security number; (h) a driver's license
24 number or other government-issued identification
25 number; (i) financial account number; (j) credit or

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1 debit information; (k) date of birth; (l) biometric
2 information; (m) any information combined with any
3 of (a) through (l) above; or (n) non-public user
4 information," to be complete.

5 Q. So it's a series of non-exhaustive
6 examples, correct?

7 A. Yes.

8 Q. That's what the "including but not
9 limited to" language you identified?

10 A. I also believe the "non-public user
11 information."

12 Q. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 MR. HOLTZBLATT: I'm going to object on
18 the grounds of privilege and instruct the witness to
19 answer only insofar as doing so would not reveal
20 privileged information.

21 A. Give me one moment.

22 Q. I'm sorry. Could you repeat that, sir?

23 A. Let me -- let me look -- let me review
24 for a moment.

25 Q. Yes, of course.

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1

A.

[REDACTED]

18

MR. HOLTZBLATT: Object as vague.

19

A.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24

A. Perhaps -- perhaps I can be helpful.

25

If you pull up an advertisement, the

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1 information associated with an advertisement
2 includes, if it's an individual making that
3 advertisement, a first name and last name. It
4 includes -- it includes a town. It includes a
5 location. It includes either an advertiser ID,
6 which is a persistent identifier that could be used
7 to recognize a user over time and across different
8 devices, websites or other online services, as well
9 as other non-public user information associated with
10 users of our -- the advertiser around likes,
11 comments, and such.

12 Does that help answer the question you
13 were trying to ask?

14 Q. Yes. Your description of the
15 information available in an advertisement, does that
16 assume that an individual as opposed to a
17 corporation is the advertiser?

18 A. Where it is a corporation, there would
19 not be a first or last name. However, there is a
20 persistent identifier that can be used to recognize
21 a user over time.

22 Q. And when you use the word "user," are
23 you talking about an individual or corporation
24 advertiser?

25 A. A Facebook account holder is what I'm

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1 using that term as. I don't -- I don't know what
2 you mean.

3 Q. I'm trying to understand what you meant
4 by the word "user."

5 So when you say "a Facebook account
6 holder," I'm just trying to understand, are you
7 talking about an individual with a first/last name,
8 Social Security number, etcetera, or are you
9 talking -- when you say "Facebook account holder,"
10 is that broad enough to include a corporation as
11 well?

12 A. In some cases, yes.

13 Q. Yes, it is broad enough to include a
14 corporation?

15 A. It is broad enough. Sorry, I thought I
16 gave to you pretty concrete answers, and so I will
17 walk back through those.

18 If the advertiser was an individual,
19 the -- which happens often, the information included
20 is a first or last name. If you look at the second
21 bullet, it includes a town, it includes user
22 identifier, it includes user ID, and it includes
23 other non-public user information associated with
24 the ad that you're targeting.

25 If the entity is a corporation, it

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1 includes a town. It includes -- it does include
2 other information. It includes the -- the other
3 information would be the same: the user identifier
4 for the corporation, includes the user ID, the other
5 non-public user information in addition to
6 non-public user information associated with other
7 users that interacted with the ad in order to get
8 comments, information. Comments have a first name
9 and last name associated with it, likes; and
10 interactions have first name/last name as well as
11 user ID associated with it.

12 Q. Looking back at Exhibit 6, the FTC
13 Order, definition D is "Covered Information,"
14 correct?

15 A. Definition D is "Covered Information."

16 Q. And I apologize. I actually misread my
17 note. Covered -- definition "C," as in Charlie, is
18 "Covered Incident," correct?

19 A. That -- yes, "Covered Incident."

20 Q. And covered incidents are what Facebook
21 reports to the FTC?

22 A. Covered incidents are what Facebook
23 reports to the FTC.

24 Q. The FTC Order defines "Covered
25 Incident," in part, to mean the "access, collection

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1 or use or sharing of Covered Information in
2 violation of Respondent's platform terms," correct?

3 A. I would -- I believe that's a portion of
4 what is written there, correct.

5 Q. And then if you look on the next page,
6 definition L, that defines "Platform Terms"?

7 A. "L" is "Platform Terms," correct.

8 Q. And "Platform Terms" simply means
9 Facebook's terms of service?

10 MR. HOLTZBLATT: Object as --

11 A. "Platform Terms" --

12 MR. HOLTZBLATT: I'm going to object as
13 calling for a legal conclusion and mis-describing
14 the term as written.

15 A. "Platform Terms" means "Respondent's
16 written terms, policies and procedures relating to
17 the privacy, confidentiality, or integrity of
18 covered information that applies to covered third
19 parties."

20 Q. As part of Facebook's procedure for
21 complying with the FTC Order, does Facebook
22 interpret that to mean the Facebook terms of
23 service?

24 MR. HOLTZBLATT: I'm going to object as
25 calling for a legal conclusion and also on the

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1 Can you please confirm that for me?

2 A. Yes, I do have this.

3 Q. Direct you to page 7 of 9 of the
4 document, and that, of course, is number 6 at the
5 bottom of the page.

6 A. Thank you for clarifying. Yes.

7 Q. Do you see the sentence beginning on
8 line 24: "Based on" -- strike that. I'm going to
9 give you a foundation here.

10 MR. HOLTZBLATT: Sorry, Dustin. Before
11 we get too much into this document, I'm wondering,
12 it's been about an hour since our last break. I'm
13 wondering if we should take another short break. We
14 don't have to if Mike is feeling up to it.

15 But I just -- I know you're about to
16 start in on a new set of questions.

17 MR. TAYLOR: Mr. Clark, that's your
18 decision.

19 THE WITNESS: Let's get through -- let's
20 keep going.

21 MR. TAYLOR: Okay.

22 BY MR. TAYLOR:

23 Q. In this document, beginning at line 18,
24 the sentence:

25 [REDACTED]

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1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11 A. Yes, I do.

12 Q. That was a lot of foundation for the
13 question I want to know the answer to.

14 [REDACTED]

[REDACTED]

16 MR. HOLTZBLATT: I'm going to --

17 A. Let me --

18 MR. HOLTZBLATT: -- object on privileged
19 grounds but only insofar as Mr. Clark can answer the
20 question without revealing privileged information,
21 which I believe he can.

22 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1

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1 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7 Q. Direct your attention to Exhibit 3. You
8 may need to go to the eDepoze system for that.

9 A. Yes.

10 Q. And just tell me when you're there,
11 please, sir.

12 A. Waiting for it to load.

13 I now have Clark_Exhibit_3_Courtesy.pdf
14 open.

15 Q. And the title of the first page is
16 "Scraping Covered Incident (SCI) Report,"
17 November 1, '20 to November 30, '20; is that
18 correct?

19 A. That is correct.

20 Q. Turn to page -- numbered page 4 of that
21 document, please.

22 A. Page 4 of 5?

23 Q. It is numbered page 4.

24 A. I believe I'm on it. The title is
25 "Scraping Covered Incidents (SCI) Remediation

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1 Update "?

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